

**Teamsters Local Union No. 988, International Brotherhood of Teamsters, AFL-CIO<sup>1</sup> and Emery Worldwide, a CF Company.** Case 16-CB-3497

December 14, 1992

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND OVIATT

On June 10, 1991, the National Labor Relations Board issued a Decision and Order,<sup>2</sup> dismissing the complaint in its entirety. The complaint alleged that the Respondent violated Section 8(b)(1)(A) and (3) of the Act by bargaining and utilizing contractual grievance-arbitration procedures to compel the merger of the Purolator employees unit with the Emery employees unit and the application of the Emery contract to the merged unit. Relying on *Chicago Truck Drivers (Signal Delivery)*, 279 NLRB 904 (1986), and related cases, the administrative law judge had found that the Respondent had violated the Act as alleged. The Board reversed and did not consider *Signal Delivery* applicable to the circumstances presented here. The Board found that the Respondent's contention that a merger had already occurred reasonable and raised a bona fide contractual issue and that the Respondent's action was not inconsistent with any prior adjudication. In these circumstances, the Board found no violation.<sup>3</sup>

The Charging Party filed a petition for review with the United States Court of Appeals for the Fifth Circuit. On July 24, 1992, the court denied enforcement of the Board's Order.<sup>4</sup> The court reversed the Board and agreed with the judge that, like the situation discussed in *Signal Delivery*, "the Union attempted unlawfully to force the merger of two historically separate bargaining units via the arbitration process."<sup>5</sup> The court specifically held that the Respondent's "attempt to have the Purolator employees brought within the Emery contract is clearly an 'illegal objective'"<sup>6</sup> and, thus, the Respondent violated Section 8(b)(1)(A) and (3) of the Act. Accordingly, the court remanded the case to the Board for entry of an appropriate remedial order not inconsistent with the court's opinion.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>1</sup> On November 1, 1987, the Teamsters International Union was readmitted to the AFL-CIO. Accordingly, the caption has been amended to reflect that change.

<sup>2</sup> 303 NLRB 306.

<sup>3</sup> Chairman Stephens was not on the panel that decided that case.

<sup>4</sup> 966 F.2d 1003.

<sup>5</sup> Id. at 1006.

<sup>6</sup> Id. at 1007.

Having accepted the court's remand, we regard its opinion as the law of the case and issue the following remedial order.

**ORDER**

The complaint is reinstated.

IT IS FURTHER ORDERED that the Respondent, Teamsters Local Union No. 988, International Brotherhood of Teamsters, AFL-CIO, Houston, Texas, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Refusing to bargain collectively with Emery Worldwide, a CF Company by insisting on the merger of the Emery and Purolator bargaining units and on the application of the Emery unit collective-bargaining agreement to the Purolator unit employees.

(b) Restraining and coercing employees by pursuing a contract grievance which demands that the Emery unit collective-bargaining agreement apply to the Purolator unit employees.

(c) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Withdraw its grievance and arbitration demands seeking the merger of the Emery and Purolator units and the application of the Emery unit collective-bargaining agreement to the Purolator unit employees.

(b) Post in conspicuous places at their business offices and meeting halls, copies of the attached notice marked "Appendix."<sup>7</sup> Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Sign and mail sufficient copies of the notice to the Regional Director for posting by Emery Worldwide, a CF Company, if that company is willing, at all locations where notices to employees are customarily posted.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

<sup>7</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

NOTICE TO MEMBERS  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain collectively with Emery Worldwide, a CF Company by insisting on the merger of the Emery and Purolator bargaining units and on the application of the Emery unit collective-bargaining agreement to the Purolator unit employees.

WE WILL NOT restrain and coerce employees by pursuing a contract grievance which demands that the Emery unit collective-bargaining agreement apply to the Purolator unit employees.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL withdraw our grievance and arbitration demands seeking the merger of the Emery and Purolator bargaining units and the application of the Emery unit collective-bargaining agreement to the Purolator unit employees.

TEAMSTERS LOCAL UNION NO. 988,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, AFL-CIO